

STATE OF VERMONT
PUBLIC SERVICE BOARD

PUBLIC HEARING HELD FOR THE PURPOSE
OF GAINING PUBLIC INPUT ON THE
ESTABLISHMENT OF THE 2014
TELECOMMUNICATIONS PLAN

February 21, 2014
6:09 p.m.

8 Stratton Road
Rutland, Vermont

Public Hearing held via the
Vermont Interactive Television network,
at the Stafford Technical Center, 8 Stratton
Road, Rutland, Vermont, on February 21,
2014, beginning at 6:09 p.m.

P R E S E N T

DIVISION MEMBERS: James Porter
Clay Purvis
Autumn Barnett
Cory Chase
Commissioner Recchia

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1 MR. PORTER: Good evening. Thank you
2 for being here tonight. This is the first
3 public hearing held by the Department of
4 Public Service for our 2014
5 Telecommunications Plan. My name is Jim
6 Porter. I'm in the Telecom Division for the
7 Department of Public Service.

8 With me tonight are Cory Chase and Clay
9 Purvis. Also with Telecom Division, I've got
10 Autumn Barnett, our Director of Consumer
11 Affairs and Public Information. And I
12 believe in Randolph, we have our Commissioner
13 Christopher Recchia. There he is. I see
14 him.

15 COMMISSIONER RECCHIA: Yes, that's
16 correct. Thanks, Jim.

17 MR. PORTER: For those of you who turned
18 out, we appreciate it. As I said earlier,
19 this is the first public hearing that the
20 Department will be holding as we work on our
21 2014 Telecommunications Plan.

22 Tonight, we're here to listen to any
23 comments that anyone has. And then we have,
24 for some months now, been consulting with
25 other parties such as the Department of

1 Information and Innovation and the Commerce
2 Department. We've done one survey among
3 Vermont residents and will be doing another.
4 And, after this hearing, we will take the
5 comments that we receive and we will produce
6 a draft plan. And we hope to do that fairly
7 quickly.

8 We will then publish the draft plan and
9 there will be another public hearing so that
10 you can come and comment on the actual plan.
11 Tonight, we should have a court reporter with
12 us. I believe she may be in Rutland.

13 THE COURT REPORTER: Correct.

14 MR. PORTER: So your comments will be
15 transcribed. And we also, I believe, have
16 people who can submit comments via the
17 internet tonight and we will read those
18 comments, as well. And you can also submit
19 comments to the Department of Public Service
20 via e-mail or in writing.

21 But we appreciate your being here
22 tonight. And let's see if we we've got some
23 people who can give us some comments. Do we
24 have anyone in St. Albans who would like to
25 speak?

1 MS. MALONE: Yes.

2 MR. PORTER: If you can come to the
3 microphone, I think the camera will go to
4 you.

5 MS. MALONE: Am I okay to start?

6 MR. PORTER: Sure. We can't see you.
7 There. Okay. Sure.

8 MS. MALONE: Hi, my name is Elizabeth
9 Malone. I'm the Executive Director for
10 Northwest Access TV here in St. Albans and I
11 also serve on the Vermont Access Network
12 Board of Directors.

13 I just wanted to start by reading a
14 quote, "PEG access can serve the public by
15 being more than just a place to play tapes.
16 When PEG access includes facilities and
17 training for members of the community to
18 learn video production, it contributes to
19 media literacy in the community."

20 That probably sounds familiar. It's the
21 2004 Vermont Telecommunications Plan. So, I
22 just wanted to read that because the media
23 landscape has certainly shifted in the last
24 seven years. And the production of video has
25 really become ubiquitous as we all carry

1 around video cameras on our Smartphones. But
2 just creating video is not communicating.
3 And it takes experience and practice to
4 create video that truly communicates beyond
5 just the funny cat video you might make.

6 Our access centers are, in many cases,
7 in our rural state, the only place to access
8 the training necessary to effectively
9 communicate in this multimedia platform. As
10 the quote I just read indicates with its
11 mention of playing tapes, PEG Access in the
12 rural Vermont media landscape is in need of
13 an updated recognition. We are doing a lot
14 of things that we weren't doing seven years
15 ago and certainly not 14 years ago.

16 And I encourage you to include PEG
17 Access in the 2014 Telecommunication Plan and
18 fully recognize what Access TV has become in
19 this state. And, also, I encourage you not
20 to pick a Friday before school vacation for
21 the next hearing. It's a little tough to get
22 people to come out. But thank you.

23 MR. PORTER: Thank you for your
24 comments. And to let you know, this wouldn't
25 have been our preference either. This was

1 the first available night we could get all of
2 the VIT sites. And so we'll certainly try to
3 have it on a Monday or Wednesday after we get
4 a draft plan out.

5 MS. MALONE: Great. Thank you.

6 MR. PORTER: Have we got anyone else at
7 any other locations who would like to speak?
8 Great. We've got one in Montpelier. If you
9 can come to one of those microphones.

10 MR. LARKIN: My name is Charles Larkin
11 and I'm a former telecommunications engineer
12 for the Department of Public Service. Prior
13 to that, I was Chief of the Consumer Affairs
14 Division of Public Service, the first one.
15 And I've been retired since the last day of
16 December 2004. And I know the world has
17 changed in telecommunications in the
18 regulations and in technologies since. It
19 changed over the last four years I was there
20 with the turn of the century.

21 But I keep hearing about how we want to
22 have communications -- telecommunications to
23 the hither lands. We used to joke when we
24 would say fiber to the cow. We came to give
25 fiber to most of the state, seems like. And

1 that's where I'm interested. It seems to me
2 that an awful lot of poles are out there,
3 conduits with lines through them, and they're
4 all using free, my property.

5 I have a detour as does every other
6 citizen in this state. We own the right of
7 ways. And we condescend to allow the
8 telephone and power companies when I was
9 first starting the business in '69 to come in
10 and put their poles and stuff there. But
11 that was fine. But along came that new
12 animal, cable television, whatever that is.
13 And the pole line could be falling down and
14 if it's the Public Service Board or
15 Department or any other body who looks at
16 conforming to construction standards would
17 find some of those pole lines in terrible
18 shape and worthy of a rebuild. And neither
19 the telephone nor power would rebuild it.
20 Wait until some silly cable guy came along
21 and let him buy a whole new pole for him.

22 And thus how we got the Pole Traffic
23 Rule. That was the whole purpose of them.
24 And that was to allow the new player on the
25 block to get on the facilities, equitable

1 rates and reasonable conditions to get on.

2 Well, today, there are no longer any
3 telephone companies or power or cable
4 companies or internet companies.

5 You've seen the ads. We all bundle.

6 And that's what they're doing to keep --
7 their diversifying their lines, which is what
8 every company has to do at some point in life
9 when they get to lose their monopoly, too
10 much competition or too much trouble from
11 their prices of buying things, they have to
12 diversify. They put all of those services on
13 almost every player out there.

14 And most of them are going to fiber.

15 So, there comes to me that fiber is the new
16 pole line problem. That's a thing that's
17 hung up on our the poles that we allow to be
18 there. So we can condition people who get on
19 poles on our property to have to do things
20 like allow the cable guy to get on at a
21 decent rate.

22 I'd like to consider this ten-year rule,
23 ten-year plan but also suggest that we're not
24 going to tell who can do what and not going
25 to discuss what's information and what

1 telecommunications is. We don't care.

2 Most of us, I understand vaguely is, up
3 there at the -- with the crazy circle within
4 429 or 229 or whatever the highway is. All
5 those nuts up there doing that. But can look
6 at that and say, okay. If you want to play
7 on our fiber, that is if you want your fiber
8 to play on these poles on our land, then
9 you've got to give us something. And I think
10 what they -- to give us the same open access
11 that we gave cable on that telephone power
12 lines, the same open access that the Public
13 Service Board gave to the new form of people
14 called CLECs, Competitive Local Exchange
15 Carriers, not being allowed to play in the
16 game. All of the sudden, they were given the
17 right and certain elements that were -- had
18 to be open to them, open network
19 architecture.

20 And I think we should have the same
21 thing here. We should have a new
22 consideration of what is our land, who's
23 using it and how we can get the players using
24 it to play in a nondiscriminatory manners,
25 which I think is the whole ten-year plan.

1 How do we get the facilities out there, most
2 of the people equitable rates, and to be the
3 most current facilities and to grow to the
4 next best stage when they come up? I think
5 that's our approach.

6 But, I probably lost half of what I had
7 to think about. But I will suggest that
8 these are areas in which we can put a
9 ten-year plan together. It can stop the
10 constraining affects on the other players.
11 One of the issues might arise is, if you
12 connect other people and there's a cable
13 company's facilities, say, how are they going
14 to protect our facilities from these crazies?

15 And I think if you look back at the
16 history of the Public Service Department
17 Public Service Board, that issue was raised
18 completely with great strength by NETI, I
19 guess it was, in those days, with regard to
20 how are you going to let these CLECs get onto
21 our switches? How are we going to do this?
22 They found a way. And I don't remember any
23 history at all of CLECs destroying the Arlek
24 property or the person at the Board penalized
25 or do something to these people, what they've

1 done to them. It just became a nonissue.
2 And I feel that it would be nonissue here if
3 someone were to raise... Anyway, if you have
4 any questions, I'm open.

5 MR. PORTER: No, I appreciate that.
6 And, actually, if you've got a minute after
7 the hearing, I'd like to ask you some
8 follow-up questions.

9 Any more?

10 MR. WHITAKER: My name is Stephen
11 Whitaker from Montpelier. Charlie and I have
12 known each other for 20 years or so. And I
13 didn't work in the Department of Public
14 Service. I work on the Department of Public
15 Service.

16 I tried to resist and Charlie tried to
17 dissuade me from raising the comments that
18 this was the first available night since
19 2007, which is when the last subsequent
20 ten-year plan from the 2004 plan was due to
21 be drafted, reviewed, hearings, surveys, et
22 cetera.

23 We've -- I'm suggesting that we need to
24 do an honest assessment or that the
25 Department should do and/or the legislature

1 should do an honest assessment of the missed
2 opportunities that occurred in the gap of the
3 three missing Telecom Plans. And just to
4 clarify my math, '04 was the last complete
5 plan. The '11 addendum is nothing -- nothing
6 close to what statute requires of a plan.

7 So, an '07 and '10 and '13 plan are
8 missing. Meanwhile, tens of millions of
9 grants and tens of millions of overbuilt
10 fiber in the cherry picking corridors have
11 been built. And as I understand it, open
12 access requirements were not part of the
13 Sovernet and the VTel grants. They are part
14 of the Vermont Fiber Connect, the VEC fiber
15 and VTA spans.

16 But the definition of what open access
17 means is really missing. Now, we see an
18 industry trying to co-op to confuse people
19 between, you know, net neutrality and open
20 access to carriage. And it occurs to me that
21 the plan needs to flush out the detail of
22 what open access means in -- and in time, to
23 participate in the charter and the Comcast
24 CPG renewals. Because if -- if Burlington
25 Telecom or whoever their new partner is or

1 VTel wants to reach across fiber that Comcast
2 has pulled, there should be provision for
3 that.

4 We need to unbundle the fiber.
5 Statewide, we need to quit overbuilding it on
6 existing corridors. There's so much dark
7 fiber in Vermont and if you look at the
8 statutory goals, 202c, referring to, you
9 know, forward looking ability to grow,
10 wireless -- we're going to -- wireless is the
11 temporary bandaid for most of the
12 applications that we see coming down the
13 line.

14 It's -- we need fiber, we need symmetric
15 connections, meaning the same speed up and
16 down and we need it out to the corners of the
17 state. We need wall to wall fiber. And the
18 only way we're ever going to accomplish that
19 economically is by incenting [sic] the
20 carriers to use the existing fiber that's
21 already built, quit overbuilding and then
22 create incentives to build out to -- or
23 requirements to dig into the CPG to build out
24 to these dairy farms.

25 MR. LARKIN: We used to have that, the

1 conditions for the certificate of public
2 good. And we specified exactly where they
3 had to build to. Then, how they would expand
4 on that, based upon the financial facts of
5 their returns to the Public Service Board
6 annual reports.

7 MR. WHITAKER: I'd like to raise another
8 issue in that -- I'll do this as delicate as
9 possible. And I appreciate Commissioner
10 Recchia attending. I made a point of
11 encouraging him to do so.

12 The fact that I have perused the maps,
13 in order to be prepared for this hearing,
14 which I knew would come, I didn't know when
15 but I knew it would come, I requested maps of
16 the Department of Public Service. And I got
17 the answer that, as for as I know, we don't
18 have any of those maps.

19 That turns out to be quite far from the
20 truth. What I've learned since then is that
21 many of these maps and even the location of
22 the providers of the so-called broadband are
23 all protected under nondisclosure agreements.

24 How can we effectively run a democracy
25 of citizen participation in a planning

1 process where the Department has signed away
2 our rights to see where our fiber is? I
3 mean, there's a basic inherent contradiction
4 there.

5 So, two things I'm suggesting right off
6 the bat is that we find a way to solve that
7 problem of making known where our fiber is.
8 I mean, I can run around and photograph it
9 all and build my own data base, but that
10 shouldn't be necessary. If the Department is
11 to be doing an advocacy role in soliciting
12 meaningful feedback from the community about
13 what needs to be built where and how many
14 partners can come to the table to see that it
15 gets built, you can't do that without knowing
16 where the fiber is. It's as simple as that.

17 Another data set that needs to be built,
18 the Department should do, is all of the
19 schools and libraries and even hospitals,
20 hospitals where they -- the finances are
21 public record, we need to build a data base
22 and who's paying what over what term of
23 contract for these new internet connections.
24 Okay? I know, for example, and my favorite
25 example is VTel's offering a product in their

1 territory that is 1/20 of the price for 20
2 times the band width that Sovernet proposed
3 to the Town of Plainfield on a five-year
4 contract. Okay?

5 That is absolutely absurd. These are
6 grant funded networks that the public has
7 paid for and somebody was asleep at the
8 switch when those conditions -- terms and
9 conditions were allowed to go forward. The
10 incentive for market competition, it may be
11 that --

12 I also want to echo the woman from St.
13 Albans about the need for PEG Access and I
14 would even expand upon that. The public
15 education and government capacity, typically
16 three to five percent of revenues or two or
17 three channels out of 100, is some guestimate
18 numbers, those principles need to be applied
19 and strengthened, not only in each franchise
20 area, but statewide.

21 I mean, we need to interconnect these
22 cable systems and we need those
23 interconnections to include that band width
24 for public education and government. Okay?
25 It's somewhat -- not to offend, but it's

1 absurd the amount of fiber and technology and
2 expertise we have in Vermont that we're still
3 running over this T1 technology with 15
4 second lag times.

5 I mean, it is absolutely absurd where we
6 could be doing symmetric, full, virtual
7 presence to you use Cisco's trade name. And
8 we should be doing it all over the state. I
9 mean, we're a small enough state with a
10 bright enough population and real forward
11 thinking legislature. We need to actually
12 use that opportunity as a laboratory and a
13 accomplish some of this stuff.

14 And these are part of the gaps that have
15 happened from not having those two plans
16 done. Okay? And I'm not pointing fingers
17 at -- you know, I know that our Director of
18 Telecom only came on in the last few years
19 and he's not to play catch up for years of
20 issues before that, but it took really
21 rattling some pages to get this process
22 started, you know?

23 And I have high hopes for it. Feel free
24 to jump in.

25 MR. LARKIN: We've mentioned peg and peg

1 having a percentage, this was over the video
2 system, cable television, movies, you know,
3 short-term quicky, psycho sitcom companies,
4 whatever. With internet, we are moving
5 toward where everyone's over the internet.
6 What we used to call telephone, what we used
7 to call cable -- and internet itself is
8 carrying -- internet, obviously, is an
9 oxymoron.

10 And since they're all carrying video,
11 all three of them are now carrying video,
12 then the peg money should be addressed in a
13 requirement to pay peg money, should be
14 addressed to all players carrying video.
15 It's television is television. Now, how do
16 you carry it? That's why I say they're all
17 one industry. And if one industry is going
18 to carry telephone poles and pretty pictures
19 of the TV, I'm too old to know, but I'm told
20 some young people, some of them don't even
21 know what a TV is. I mean, they sit and do
22 everything over the -- not even an iPad or
23 something but just over the phone. I like to
24 have pictures to look at with my old eyes. I
25 can see even without these (indicating).

1 But I think that that's the point that
2 we've got to get the -- not only the revenue
3 up, but if new technology, like if they start
4 using different colored lasers and use the
5 same fiber and just run 15 different lasers
6 down there, all that capacity, PEG people
7 should get the same percentage of that,
8 whatever it happens to be. That's enough
9 rambling. Thank you for your time.

10 MR. WHITAKER: That's a very good point.
11 I'm glad you jumped in there.

12 Many customers are pulling their video,
13 their Netflix subscriptions over their DSL
14 lines. So why FairPoint isn't paid into the
15 peg pot and I'm not an expert on
16 pre-exemption, I won't pretend to be.

17 The fact that our peg panels are unable
18 to get a crowd full of people here has to do
19 with the funding, the staffing, the quality
20 of the product. I mean, I'm frankly
21 embarrassed for the quality of the peg
22 product. You know, it's -- we're not
23 shooting high def -- or we're shooting high
24 def we're not able to broadcast high def.
25 There's no obligation for the PEG channels to

1 interconnect or share live feed for such an
2 event such as this or state to state or, et
3 cetera.

4 There's many things that are possible
5 through taking the long haul costs out of
6 interconnecting the PEG channels. Okay?
7 Especially, if we're incenting or requiring
8 the CATV operators to bridge their systems.
9 The long haul cost enables all of these
10 possibilities for the PEG channels to create
11 a statewide channel where whoever's got the
12 best programming or spill over into the third
13 or fourth channel. But there's no reason it
14 shouldn't be equally as well microphone and
15 video and color corrected and high res and
16 anything else that's available on the system.

17 Charlie and I don't -- got together
18 today to try to draft out a map and we didn't
19 anticipate -- we were hoping to listen and
20 build upon a structure of stuff that -- but
21 we didn't have enough prepared testimony to
22 really give you sufficient -- I think we gave
23 you a taste.

24 MR. PORTER: I think it's helpful. As
25 we said, we'll have a draft plan that you'll

1 get and can comment on next round.

2 Have we got anyone else in any other
3 locations?

4 MR. CHASE: We may have one more
5 question coming in via the internet. They
6 might want to say something.

7 MS. MALONE: Can I just -- I know this
8 only requires one hearing and dubious
9 advising that VIT constitutes a hearing
10 because it doesn't have enough -- this is not
11 compelling enough to bring people out whereas
12 a roving set of hearings where the
13 Commissioner or his designee and maybe even a
14 mixed set of folks -- I know the Public
15 Service Board and the legislature have had
16 hearings around the state on topics as
17 important as this. And this deserves better
18 than a poorly advertised --

19 MR. WHITAKER: I went to the Public
20 Service Department site today to look for the
21 details of the hearing and I went to the
22 Telecommunications Section, no mention. You
23 know, I went to the Telecom Section looking
24 for the docket on Voice over IP. No mention.
25 Finally, I go back to the home page and I

1 scroll all the way down at the bottom and I
2 see a mention of this hearing. That's a
3 marketing issue. That's where I think if we
4 admit -- and the press didn't cover it -- if
5 we admit that we're ten years behind on doing
6 our plan and this is really more important
7 now than ever, then we might ought to get
8 some more enthusiasm around giving you some
9 feedback about what is and isn't working,
10 from the art community, broadcast from the
11 Chandler or from -- right? It deserves
12 better than what we've been able to
13 accomplish so far.

14 MR. PORTER: Well, thank you and I thank
15 those of you who turned out tonight. On
16 behalf of the next hearing, bring your
17 friends. And I guess with that we'll --

18 MR. RECCHIA: This is Chris, how you
19 doing? I just want to add -- I want to
20 thank, in particular, Charlie and Stephen
21 for coming out and say that I think, yeah, we
22 will develop a plan. We took their comments
23 and I think that we'll be trying to look for
24 ways to make this more exciting for everybody
25 going forward. So I do appreciate their

1 comments and, you know, this is just the
2 first of several opportunities to interact on
3 this and we'll make it right. So thank you.

4 MR. PORTER: Thank you. All right.
5 That's it. Good night, all. Have a good
6 weekend.

7
8 (Whereupon, the public hearing
9 6:39 p.m.)

C E R T I F I C A T E

I, Amanda J. Wenrich, do hereby certify
that I recorded by stenographic means the workshop
re: PUBLIC HEARING HELD FOR THE PURPOSE OF GAINING
PUBLIC INPUT ON THE ESTABLISHMENT OF THE 2014

TELECOMMUNICATIONS PLAN, held via
Vermont Interactive Television network, at the
Stafford Technical Center, 8 Stratton Road, Rutland,
Vermont, on February 21, 2014, beginning at
6:00 p.m.

I further certify that the foregoing
testimony was taken by me stenographically and
thereafter reduced to typewriting, and the foregoing
24 pages are a transcript of the stenograph notes
taken by me of the evidence and the proceedings, to
the best of my ability.

I further certify that I am not related to
any of the parties thereto or their Counsel, and I
am in no way interested in the outcome of said
cause.

Dated at Rutland, Vermont, this 3rd day of
March, 2013.

Amanda J. Wenrich
Registered Professional Reporter & Notary Public
My Commission Expires:
February 10, 2015